

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

(E-Filed: August 28, 2009)

No. 99-543V

NATALIE ROCHA,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Respondent.

UNPUBLISHED

Attorneys' Fees and Costs;
Award of Reasonable
Amount to Which
Respondent Has
Not Objected

Clifford Shoemaker, Vienna, VA, for petitioner.

Katherine Esposito, Washington, DC, for respondent.

DECISION ON ATTORNEYS' FEES AND COSTS¹

CAMPBELL-SMITH, Special Master

On July 29, 1999, Nancy Turner (Mrs. Turner) filed a petition on behalf of her daughter, Natalie Turner² (Natalie) pursuant to the National Vaccine Injury Compensation

¹ Because this document contains a reasoned explanation for the action of the undersigned, the document shall post on the website of the United States Court of Federal Claims in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has fourteen days within which to request the redaction "of any information furnished by that party (1) that is trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Rules of the United States Court of Federal Claims (RCFC), Appendix B, Vaccine Rule 18(b). In the absence of timely objection, the entire document will be made publicly available.

² On December 17, 2007, petitioner's counsel filed a motion to amend the caption to reflect petitioner's name as Natalie Rocha. By December 19, 2007 Order, the undersigned granted petitioner's counsel's request.

Program³ (the Act or the Program), 42 U.S.C. § 300aa-10 et seq. On January 21, 2009, the undersigned issued a Decision Awarding Damages. See January 21, 2009 Decision.

On August 24, 2009, petitioner's counsel filed an Application for Attorneys' Fees and Costs (Fee App.) requesting a total of \$26,883.45, in attorneys' fees and costs and \$217.08 in petitioner's costs. Petitioner's counsel's application included a statement from petitioner regarding her out-of-pocket expenses. See Fee App. at 2-3.

On August 27, 2009, respondent's counsel filed Respondent's Response (R's Response) to petitioner's fee application, which indicated that the parties had discussed the fee application. R's Response at 1. The filing indicated that the parties reached an understanding regarding attorneys' fees and were able to identify a quantum to which respondent would not object. Accordingly, petitioners's counsel now seeks an award of \$23,500.00 in attorneys' fees and costs and \$217.08 in costs borne by petitioner.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioner's request and on respondent's counsel's lack of objection to petitioner's counsel's amended fee request, the undersigned **GRANTS** the attorneys' fees and costs as outlined in respondent's filing of August 27, 2009. Accordingly, the undersigned awards a total of \$23,717.08 in attorneys' fees and costs and petitioner's costs in this matter as requested for reimbursement in the following amounts:

- a. An award of \$23,500.00 in attorneys' fees and costs jointly payable to the firm of Shoemaker and Associates and petitioner; and
- b. An award of \$217.08 in out-of-pocket expenses jointly payable to petitioner and Nancy S. Turner⁴ pursuant to General Order #9.

Therefore, in the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of \$23,500.00 in attorneys' fees and attorneys' costs and \$217.08 in petitioner's

³ Hereinafter, for ease of reference, all "section" references to the Vaccine Injury Compensation Act will be to the pertinent subdivision of 42 U.S.C. § 300aa (2006 ed.).

⁴ Pursuant to the parties' request that petitioner's out-of-pocket expenses be made jointly payable to petitioner and her mother, Nancy Turner, to reflect the fact that there were out-of-pocket expenses that were incurred in this matter while petitioner was still a minor and not the proper petitioner in this matter.

costs.⁵ The judgment shall reflect that the Shoemaker and Associates law firm may collect \$23,500.00 from petitioner. Petitioner may retain \$217.08 for costs borne by petitioner.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master

⁵ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.